

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 13, 2003 and the Advisory Action mailed July 3, 2003. Claims 1-46, 48-57, and 59-74 are pending in this patent application. The Examiner rejects Claims 1-46, 48-57, and 59-74. Applicant has amended Claims 1, 27, 48-49, and 73 and have canceled Claims 4, 30-31, and 50-51. Applicant respectfully requests reconsideration and favorable action in this case.

Information Disclosure Statement

An Information Disclosure Statement (IDS) and accompanying PTO-1449 form were submitted on March 11, 2002. The Examiner has not provided an indication that the submitted references were considered by the Examiner. For the Examiner's convenience, the Applicant previously enclosed copies of the March 11, 2002 IDS and PTO-1449 form with the Response filed on June 3, 2003. Applicant respectfully requests that the Examiner provide the appropriate indication that these references have been considered by initialing next to the references on the PTO-1449 form.

The Claims As Amended Are Allowable

The Examiner previously rejected Claims 1, 27, 48 and 49 (amongst others) under U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,081,793 issued to Challener, et al. ("Challener") in view of U.S. Patent No. 5,189,288 issued to Anno, et al. ("Anno"). To advance prosecution of this application, Applicant has amended Claims 1, 27, 48 and 49. For the reasons set forth below, Applicant believes these amended claims are in condition for allowance.

Challener discloses a system and method to maximize the privacy of a voter's identity and the contents of a ballot. (*Challener*, Abstract). The system uses voter information stored on a smart card which is used during the voting process to verify the voter's identity to allow for secure voting. (*Challener*, Col. 3; Lines 2-36). The voter's selections are placed on an electronic encoded ballot. (*Challener*, Col. 8; Lines 10-18).

Anno discloses a voting tabulation system in which a key associated with a voter is used to gain access to a voting terminal. (*Anno*, Abstract). A computer screen presents the voting selections to the voter and the voter proceeds with the voting process. (*Anno*, Col. 2; Lines 12-19). The voting results are stored electronically and are tabulated within the voting terminal. (*Anno*, Col. 2; Lines 24-27). In addition to the electronic ballot, a paper ballot is produced with a machine-readable bar code representing the voter's selections. (*Anno*, Col. 5; Lines 34-44 and FIGURE 1, item 106).

Claim 1, as amended, of the present application recites the following:

An advanced voting system, comprising:
an election key generator operable to generate an election key storing information related to a voter, the election key generator further operable to store one or more ballot questions customized for the particular voter on the election key, the ballot questions relating to one or more candidates or a referendum to be voted on by the particular voter;
one or more computing devices operable to:
interface with the election key;
retrieve the customized ballot questions from the election key;
present the customized ballot questions to the voter; and
receive interactive voter selections from the voter; and
a ballot generator operable to generate tangible encoded ballots encoded with the voter selections.

Claims 27, 48, and 49, as amended, recite similar, although not identical, limitations.

Neither *Challener* nor *Anno* disclose an election key generator that is operable to store one or more ballot questions customized for a particular voter on an election key where the ballot questions relate to one or more candidates or a referendum to be voted on by the particular voter, as recited in amended Claim 1, and similarly in amended Claims 27, 48, and 49.

In order to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of

success. Finally, the prior art reference, or the combination of references, must teach or suggest all of the claim limitations. *See M.P.E.P. §2142.*

Under this standard for determining obviousness, Claims 1, 27, and 48-49 are patentable over the art of record because none of the references alone or in combination disclose, teach, or suggest each and every element of the above-identified claims. These amended claims include limitations from cancelled Claims 4, 30, and 50 – as well as further clarifying language. Previously, with respect to Claims 4, 30, and 50, the Examiner stated that *Challener* discloses a voter customized question based on a smart card (giving the example of the question "What is my pin number?", which results in a different answer for each user). (Office Action mailed 3/23/03, page 3, ¶4). However, the question "What is my pin number?" is neither a *ballot* question nor is it a question customized for the voter. *Challener* merely discloses asking the user for a PIN number in order to verify the user's identity and to allow the user to continue with the voting process. (*Challener*, FIGURE 6, items 343, 345; Col. 7; Lines 1-15).

In fact, a user does not even receive a ballot until after the PIN number has been verified, so it cannot be a ballot question. (*Challener*, Col. 7; Lines 14-16). Ballot questions, as contemplated by the present application, may include, but are not limited to, questions relating to the voting process itself, such as which candidate to vote for or how to vote on a referendum question. (Page 10; Lines 27-29). To expedite prosecution of this application, Applicant has added language to clarify this point. More specifically, Claim 1 now recites "one or more ballot questions customized for the particular voter on the election key, the ballot questions relating to one or more candidates or a referendum to be voted on by the particular voter." Claims 27, 48, and 49 recite similar language. Applicant respectfully submits that *Challener* does disclose, teach, or suggest such customized ballot questions.

For at least this reason, Claims 1, 27, and 48-49, as amended, are allowable over the cited references. Therefore, Applicant respectfully requests reconsideration and allowance of Claims 1, 27, and 48-49 and all claims that depend from those claims.

CONCLUSION

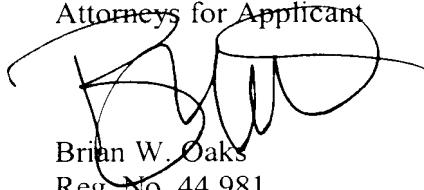
Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicant, at the Examiner's convenience at (214) 953-6986.

Enclosed are checks in the amount of \$375.00 for filing the Request for Continued Examination, and \$205.00 for a two-months extension of time. The Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Brian W. Oaks
Reg. No. 44,981

Date: August 7, 2003

Correspondence Address:

Baker Botts L.L.P.
2001 Ross Avenue, 6th Floor
Dallas, Texas 75201-2980
(214) 953-6986

Practitioners at Customer Number:

05073